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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|----------------------|---------------------|------------------|
| 09/855,989 | 05/15/2001 | Edward D. Brill | 2206.64630 | 9366 |

24978 7590 12/26/2002

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EXAMINER

PRONE, JASON D

ART UNIT

PAPER NUMBER

3724

DATE MAILED: 12/26/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/855,989

Applicant(s)

BRILL ET AL.

Examiner

Jason Prone

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☐ Claim(s) ____ is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☐ Claim(s) ____ is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on ____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). ____.
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 4 6) ☐ Other: ____.

DETAILED ACTION

Election/Restrictions

1. Applicant's election without traverse of Group I in Paper No. 6 is acknowledged.
2. Claims 15, 16, and 22 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected species, there being no allowable generic or linking claim. Election was made **without** traverse in Paper No. 6. Examiner has withdrawn group IV and has included it into group 1.

Drawings

3. The drawings are objected to because in Figure 3, item "24" should be replaced with the number "22". A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.
4. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they include the following reference sign(s) not mentioned in the description: In Figures 7 and 8, item "70". A proposed drawing correction, corrected drawings, or amendment to the specification to add the reference sign(s) in the description, are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 112

5. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

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6. Claims 10 and 17-21 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

7. Claim 10 recites the limitation "the movement control system" on line 1. There is insufficient antecedent basis for this limitation in the claim.

8. Claim 17 recites the limitation "the other end" on line 13. There is insufficient antecedent basis for this limitation in the claim.

Claim Rejections - 35 USC § 102

9. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in-

(1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effect under this subsection of a national application published under section 122(b) only if the international application designating the United States was published under Article 21(2)(a) of such treaty in the English language; or

(2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that a patent shall not be deemed filed in the United States for the purposes of this subsection based on the filing of an international application filed under the treaty defined in section 351(a).

10. Claims 1-4, 7, and 11-13 are rejected under 35 U.S.C. 102(e) as being anticipated by Soultanian (6,163,092).

'092 discloses the invention including a stationary piece (10), a moving piece (12) hingedly secured (48) to the stationary piece such that the moving piece does not generate mechanical spring forces (Fig. 2), an electric coil (14), a movement control system connected to the stationary piece and the moving piece (32) having at least one spring (22) and at least one device for adjusting the tension (34), that the coil is on the

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stationary piece (Fig. 2), a driver (24) crimped to the moving piece (18) for connection to a motor load (26), a hinge holder having a first surface that retains the moving piece axially while still allowing the moving piece to rotate (Fig. 2), a coil bobbin (16) on the stationary piece around which the coil is wound (Fig. 1), that the coil bobbin also has an extension to which the movement control system is connected to (30), that the movement control system is connected to the driver (Fig. 1), and a low friction insert between the stationary and moving pieces where they are hinged (20).

Claim Rejections - 35 USC § 103

11. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

12. Claims 5 and 6 are rejected under 35 U.S.C. 103(a) as being unpatentable over '092 in view of WO 00/27599. '092 discloses the invention but fails to disclose a hinge holder having a second surface that biases the moving piece radially while still allowing the moving piece to rotate. WO 00/27599 teaches a hinge holder having a second surface that biases the moving piece radially while still allowing the moving piece to rotate (22). Therefore, it would have been obvious to one skilled in the art, at the time of the invention, to have provided '092 with a hinge holder having a second surface to bias the moving piece radially while still allowing the moving piece to rotate.

13. Claims 8 and 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over '092. '092 discloses the invention including that the circular shaped end fits inside the

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circular shaped opening (Fig. 6) and that the movement control system is located at a second end of the moving piece (Fig. 12) but fails to disclose that the stationary piece has the circular shape at a first end and the moving piece forms the circular shaped opening at a first end. It would have been obvious to one having ordinary skill in the art at the time the invention was made to switched the circular shaped end and the circular shaped opening, since it has been held that a mere reversal of the essential working parts of a device involves only routine skill in the art. *In re Einstein*, 8 USPQ 167.

14. Claim 10 is rejected under 35 U.S.C. 103(a) as being unpatentable over '092 in view of Davis. '092 discloses the invention including that the movement control system includes a screw (34) having threads and a head (Fig. 1) but fails to disclose that the screw being adjustably threaded in an opening in the stationary piece, that the screw passes freely through an opening in the moving piece, that the stationary piece opening is located on one side of the moving piece opening and the screw head is located on the other side of the moving piece opening, a first spring between the stationary and moving pieces, and a second spring between the moving piece and the screw head. Davis teaches a screw (46) being adjustably threaded in an opening in the stationary piece (40), that the screw passes freely through an opening in the moving piece (41), that the stationary piece opening is located on one side of the moving piece opening and the screw head is located on the other side of the moving piece opening (Fig. 2), a first spring between the stationary and moving pieces (50), and a second spring between the moving piece and the screw head (Fig. 2). Therefore, it would have been obvious to one skilled in the art, at the time of the invention, to have provided '092 with

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the movement control system characteristics, of Davis, to allow for a more precise adjustment.

15. Claim 14 is rejected under 35 U.S.C. 103(a) as being unpatentable over '092 in view of Huppert, Sr. '092 discloses the invention but fails to disclose at least on grease channel in the hinge. Huppert, Sr. teaches a grease channel (8) in a hinged structure (Abstract). Therefore, it would have been obvious to one skilled in the art, at the time of the invention, to have provided '092 with a grease channel to allow for a smoother hinged surface.

16. Claims 17, 18, and 21 are rejected under 35 U.S.C. 103(a) as being unpatentable over '092 in view of Wahl et al. (5,787,587). '092 discloses the invention including a stationary piece (10) having a coil (14), that the moving piece is hingedly secured (48) to the stationary piece such that the moving piece does not generate mechanical spring forces (Fig. 2), a driver (24) at another end of the moving piece (Fig. 2), a movement control system connected to the stationary piece and the moving piece (32) having at least one spring (22) and at least one device for adjusting the tension (34), a hinge holder having a first surface that retains the moving piece axially while still allowing the moving piece to rotate (Fig. 2), a coil bobbin (16) on the stationary piece around which the coil is wound (Fig. 1), and that the coil bobbin also has an extension to which the movement control system is connected to (30) but fails to disclose a case having at least one attachment point for securing the motor, a stationary blade, a moving blade adapted for reciprocation across the moving blade, a motor secured to the case at the attachment point, and that the driver and the moving blade are coupled for

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movement of the moving blade. '587 teaches a case having at least one attachment point for securing the motor (Fig. 1), a stationary blade (104), a moving blade (122) adapted for reciprocation across the moving blade (A), a motor secured to the case at the attachment point (Fig. 1), and that the driver and the moving blade are coupled for movement of the moving blade (120). Therefore, it would have been obvious to one skilled in the art, at the time of the invention, to have provided '092 with a hair clipper components to allow for use as a hair clipper.

17. Claims 19 and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over '092 in view of '587 as applied to claims 17, 18, and 21 above, and further in view of WO 00/27599. '092 and '587 disclose the invention but fail to disclose a hinge holder having a second surface that biases the moving piece radially while still allowing the moving piece to rotate. WO 00/27599 teaches a hinge holder having a second surface that biases the moving piece radially while still allowing the moving piece to rotate (22). Therefore, it would have been obvious to one skilled in the art, at the time of the invention, to have provided '092 and '587 with a hinge holder having a second surface to bias the moving piece radially while still allowing the moving piece to rotate.

Conclusion

18. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Soultanian ('697), Wahl ('662), Wahl ('253), Wahl et al. ('364), Lee et al., Wahl ('486), Beutel et al., Alger et al., Williams, de Boer, Chen et al., Langree, Ascoli, Gernhard et al., Defim, and Wahl et al. (EP 0 802 614 A1).

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19. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jason Prone whose telephone number is 703-605-4287.

The examiner can normally be reached on 7:30-5:00, Mon - (every other) Fri.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Allen N. Shoap can be reached on 703-308-1082. In lieu of mailing, it is encouraged that all formal responses be faxed to 703-872-9302.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1148.



JP
December 18, 2002



Allen N. Shoap
Supervisory Patent Examiner
Group 3700